

The Office of Town Counsel

Memorandum

To: Kara Brewton

From: Joslin Murphy<sup>1</sup>

Re: Article 97 status of Lot #4, Putterham Meadows Golf Course

Date: February 3, 2016

Cc: Neil Wishinsky  
Susan Ditzkoff  
Mel Kleckner  
Joe Connolly  
Alison Steinfeld  
Erin Gallentine

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This Office has been asked to provide a more detailed explanation of the Article 97 status of the portion of the Putterham Meadows golf course that has been informally referred to as "Lot #4".<sup>2</sup> This portion of the property encompasses much of the eastern end of the course, near the intersection of Newton Street and South Street. Some of the land contains fairways and greens; the remaining portion appears to be a woodland located between the golf course and Newton Street.

The historical analysis of this parcel begins at the April 14, 1896 Town Meeting. At that Town Meeting, the voters appropriated \$100,000.00 "for the purchase of land for public playgrounds." (See attached 1896 Town Meeting Record). The appropriation was made in response to a request from the Town's Park Commissioners, with the clear intention that it would allow the Park Commissioners to purchase various lots in the Town. Interestingly, the warrant article that was proposed by the Park Commissioners sought an appropriation for land purchases for "playgrounds and school-house sites", but the ultimate appropriation voted by Town Meeting was exclusively for playgrounds. The unexpended balance was re-appropriated in subsequent years for the same purpose. (See, for example, attached 1898 Town Meeting Record). In 1900, Town Meeting appropriated an additional \$100,000.00, again for the purpose of purchasing land "for public playgrounds." (See attached 1900 Town Meeting Record). The first large land acquisition in the Putterham Meadows area from this appropriation was the parcel referred to as "Lot #1", a 62 acre parcel acquired on April 3, 1899 from the Trustees of the Chestnut Hill Land Co for the sum of \$22,000.00; it now makes up much of the western end of the golf course. (See attached Deed and 1900 Report of the Park Commissioners)

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<sup>1</sup> Grateful thanks again to ATC Jonathan Simpson for his significant contribution to this.

<sup>2</sup> See previous Memorandum to Kara Brewton on this subject dated January 21, 2016.

The Park Commission went on to acquire a series of additional parcels in the Putterham Meadows area. Park Commission meeting minutes from November 14, 1901 state: “[t]he question of the purchases of various parcels of land adjoining land owned by the Town on Newton Street were considered and discussed at length, meeting with favor by the Selectmen, and if satisfactory prices can be obtained the Board will approve in writing the purchase of the same by the Park Commissioners.” (See attached Minutes).

Park Commission meeting minutes from January 8, 1902 state that Commission Chair Desmond Fitzgerald discussed the proposed purchases of parcels of land with the Board of Selectmen, listing one such proposed purchase as “George F. Boynton – About 18 3/8 acres - \$12,000.00”. (See attached Minutes). Subsequently, Lot #4, containing two parcels, one “four (4) acres, one-quarter (1/4), and nineteen (19) rods” and one “fourteen (14) acres”, was purchased for \$12,000.00 from George and Clara Boynton pursuant to a deed dated February 19, 1902. (See attached Deed). The rest of the parcels listed in the minutes of the January 8, 1902 Park Commission meeting pertain to what are informally referred to as Lots 2, 5, 6, 7, 8 and 9 of what is now the Putterham Meadows Golf Course.

It is our opinion that Lot #4, having been acquired by the Town’s Park Commission using funds appropriated by Town Meeting “for public playgrounds” thus falls within the protective ambit of Article 97. See, *Mahajan v. Department of Environmental Protection*, 464 Mass. 604, 614 (2013); *Board of Selectmen of Hanson v. Lindsay*, 444 Mass. 502 (2005).

Based on the foregoing, it is our opinion that any attempt to use the property for another use, such as for education purposes, without first meeting the requirements imposed under G.L. c. 40, s. 15A, Article 97, and the Energy and Environmental Affairs Article 97 Land Disposition Policy, would be vulnerable to legal challenge.

The Office of Town Counsel

Memorandum

To: Kara Brewton

From: Joslin Murphy

Re: Potential Ninth School Sites

Date: January 21, 2016

Cc: Neil Wishinsky  
Susan Wolf-Ditkoff  
Mel Kleckner  
Joe Connolly  
Alison Steinfeld

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This responds to your inquiry concerning restrictions on the use of the following Town owned sites<sup>1</sup> for the purposes of constructing a public elementary school.

I. ARTICLE 97

Article 97 of the Articles of Amendment to the Massachusetts Constitution (“Article 97”) provides, in relevant part, that “the people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic and esthetic qualities of their environment.” Under Article 97, public lands that are acquired for these purposes cannot be used “for other purposes or otherwise disposed of” without a two thirds vote “of each branch of the general court.”

In addition, the Executive Office of Energy and Environmental Affairs Article 97 Land Disposition Policy is intended to ensure that there is “no net loss” of Article 97 lands. Under this Policy, municipalities seeking to dispose of Article 97 land (or convert the use of such land to another purpose) must first (1) explore all other options and find that “no feasible and substantially equivalent alternatives exist; (2) obtain a unanimous vote of the Conservation Commission that the land is “surplus to municipal, conservation, and open space needs; (3) obtain a two-thirds vote of Town Meeting supporting the disposition; and (4) comply with all requirements of the Urban Self-Help and Land and Water Conservation Fund and other applicable funding sources, including land replacement. Failure to comply with the Policy renders the non-compliant municipality ineligible to receive EEA or EEA agency grants. Finally, G.L. c. 40, s. 15 separately requires a two-thirds vote of Town Meeting in order to “transfer the care, custody, management and control” of land that was acquired for playground and certain other purposes to another specific municipal purpose.

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<sup>1</sup> Grateful thanks to ATC Jonathan Simpson for his historical research and contribution to this matter.

## II. TOWN OWNED SITES UNDER REVIEW

The following Town-owned sites have been identified for potential use as the site of a public elementary school:

### Putterham Meadows Golf Course

The Putterham Meadows Golf Course<sup>2</sup> is comprised of several parcels of land that were acquired by the Town between 1899 and 1939. See, Exhibit A, attached. In 1899, the western third of the golf course (“lot 1”) was acquired by the Town’s Park Commissioners from funds expressly designated for playground and/or recreational purposes by Town Meeting. Lots 2 – 9, including the middle-south portion along West Roxbury Parkway, the northwest corner, and a large portion of the southeast corner were acquired by the Town’s Park Commissioners “with a view of forming a connected area for purposes of public recreation and playgrounds...” The remaining lots, numbered 10 – 13, were acquired by the Town’s Park Commissioners for playground purposes (lot 10); to improve the boundary lines between the golf course and the contiguous golf course owned by The Country Club (lot 12a and 12e), and for “a peat pit and turf nursery” presumably to service the gold course (lot 13). The Golf Course is considered to be Article 97 land.

### Soule Playground/Baldwin School

The Soule Playground was acquired by the Town in 1959 “for recreational purposes” under a so-called “friendly” taking under the power of eminent domain. Thereafter, an Urban Self-Help Grant was accepted by the Town in FY97 for improvements to the Playground. Soule Playground is considered to be Article 97 land.

The Baldwin School Property is comprised of two parcels of land that were acquired by the Town in 1873 and 1941 for educational purposes. In FY76, the Town accepted a Federal Land and Water Conservation Fund (“LWCF”) grant for improvements to the tennis court area of this property. Aside from this portion of the property, the Baldwin School property is not considered to be Article 97 land, and therefore may be used for educational purposes with little likelihood of a successful Article 97 challenge. However, the Baldwin School is listed in the National and State Historic Registers, which would trigger historic impact review.

### Dane Park

The lots comprising Dane Park were acquired by the Town in 1952 “for recreational or educational purposes.” Dane Park is not considered to be Article 97 land, and therefore may be used for educational purposes. However, because the land has historically been used by the Town as a public park, a decision to use the property for educational purposes is not immune to challenge.

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<sup>2</sup> More recently named the “Bob Lynch Golf Course at Putterham Meadows”

### Larz Anderson Park

Larz Anderson Park was acquired by the Town in 1948 for “public recreation, charitable, or public education purposes” under the will of Isabel Anderson. Consequently, the Park is not considered to be Article 97 land. However, because the Town accepted funds for improvements to the Park under at least one federal LWCF grant that purports to protect the entire Park as open recreational land, a decision to use any portion of the property for educational purposes is highly vulnerable to challenge.

This memorandum is intended to provide you with a general impression of the Article 97 and related protections afforded these properties. If you have any further questions, please do not hesitate to contact me at (617) 730-2190.

1900

22

HEATH ROAD

WOODLAND

HAMMOND

Josephine N. Cox  
34 <sup>33</sup>/<sub>100</sub> A.

C.P. Donald  
7.05 A.

J.G. Wright &  
W.E. Cox  
4.72 A.

Clithorne D. James  
6 <sup>5</sup>/<sub>100</sub> A.

J.G. Wright &  
W.E. Cox  
4 A.

Eliz. T. Quimby  
12 A.

Goddard, Hrs.  
#3  
7 <sup>1</sup>/<sub>100</sub> A.

John G. Wright &  
Wm E. Cox  
15.3 A.

Louis & Walter C. Cabot  
63 <sup>50</sup>/<sub>100</sub> A.

Amy H. Cabot  
19 <sup>50</sup>/<sub>100</sub> A.

Augustus Lowell  
12 <sup>50</sup>/<sub>100</sub> A.

Chas. P. Gardiner  
2 <sup>1</sup>/<sub>100</sub> A.

J. Sullivan  
3 <sup>5</sup>/<sub>100</sub> A.

Chas. P. Gardiner  
66 <sup>20</sup>/<sub>100</sub> A.

248

John G. Wright &  
Wm E. Cox

#9

Frank  
Schneider  
4 A.

#2  
Harry B. Burley  
3 <sup>5</sup>/<sub>100</sub> A.

Wm. Schneider  
3 A.

Hrs. Geo. S. Curtis  
8 <sup>54</sup>/<sub>100</sub> A.

#5

Hrs. Jas. W. Edgerly  
8 A.

#6

Chas. F. Curtis  
16 <sup>74</sup>/<sub>100</sub> A.

#4

Clara F. Boynton  
18 <sup>37</sup>/<sub>100</sub> A.

9 <sup>21</sup>/<sub>100</sub> A.

485 <sup>1</sup>/<sub>100</sub> A.

14 <sup>3</sup>/<sub>100</sub> A.

THE COUNTRY CLUB

#10 on Newton St. surrounded by

#1

Town of Brookline  
60 A.

#12E

#12C

#12B

#12A

#13

McCoy

3 A.

John

amount of \$2,361.30, as above stated. This will fully complete the work. If this estimate should prove to be correct, the total expenditure for grading the Longwood Playground would amount to \$17,000, instead of \$27,000, the original estimate. The Commissioners ask for the sum of \$8,000 for completing this work during the present year.

At the last annual town meeting an appropriation of \$500 was made to enable the Park Commissioners to examine and report on the question of additional playgrounds for the town, and the Commissioners have given serious consideration to this problem. About one-half the whole area of the township of Brookline is already occupied by a moderately dense population, and within this district the town possesses three playgrounds: one on Longwood avenue, one on Brookline avenue, and one on Cypress street, besides a considerable tract of land on Harvard street, adjoining the Edward Devotion school-house. These grounds are found within that part of the northern half of the township which has been longest occupied. The newer settlements in the direction of Fisher Hill and Chestnut Hill reservoirs are not provided with any public grounds. The whole southern half of the township, south of Boylston street, is similarly lacking in playground reservations. For the newer suburbs in the northwest part of the township, it is already too late to purchase land for playgrounds at low prices, and every additional street and street railway in the southern half of the township will cause an advance in value of land.

Provision should be made now for sites for the school-houses which will be needed in the southern part of the town. In providing playgrounds and school sites for the future, the Commissioners believe that the policy of the town should be to secure several pieces of land, each with an area of from five to ten acres, rather than one or two larger bodies of land, which might be regarded as parks. They believe, moreover, that the least high-priced land, and land unsuited for general building purposes, should be selected, due regard being had to convenient location and the possibilities in the future of improvement at reasonable cost.

While the Commissioners do not believe that any expenditure would be necessary or expedient on such playgrounds for many years to come, they do believe that the land for them must be secured now if it is to be acquired; and after discussing the whole subject of the future development and needs of the town with the Selectmen, and with their unanimous approval, they recommend to the town to appropriate the sum of \$100,000, to be expended by the Commissioners for the purchase in different parts of the town of such pieces of land for playgrounds and school-house sites as in their judgment seems necessary or desirable; no land to be acquired without the approval of the Selectmen. The Commissioners ask for this appropriation without designating any particular land they might consider it advisable to purchase, because they believe that much better terms can be secured for the town by buying first and reporting afterward, than by the method usually employed in such cases: that is, in making known beforehand the plans of the town, a method which gives to the seller every advantage and deprives the purchaser of the benefits of good business methods.

It is easy for anyone familiar with the increase of land values in Brookline in the last twenty-five years, or even within the last ten years, to realize what it would cost the town to buy a playground of five acres at the end of twenty-five or fifty years from this time, when the density of our population and the demands of civilization will require that every large school-house shall be surrounded with ample space for the use of the children of the town. As this expenditure is entirely for the benefit of future generations, your Commissioners recommend that the money be borrowed for as long a period as the law allows.

Respectfully,

HENRY M. WHITNEY,

CHARLES S. SARGENT,

WILLIAM H. LINCOLN,

*Park Commissioners.*



1900

**Playgrounds.**

With the approval of the Selectmen, sixty-two acres of land have been purchased in the Putterham meadows at the corner of Hammond and Newton streets for \$22,000. This piece of land is, in part, high, rocky, and is covered with a fine growth of hemlock trees. The larger part of the land is, however, a low meadow which can be flooded for skating in the winter, or drained and used for playground purposes during the rest of the year.

An agreement has been obtained for the purchase of an estate on Boylston street, containing 17,046 square feet, for the sum of \$15,000. The agreement has not yet been consummated by the passage of the final papers. The land will be of value for the enlargement of the Boylston Primary School playground.

**ADDITIONAL APPROPRIATION FOR PLAYGROUNDS.**

At the adjourned annual town meeting held on April 14, 1896, an appropriation of \$100,000 was placed in the hands of the Park Commissioners to expend in acquiring pieces of land in different parts of the town for playgrounds and school-house sites, on condition that no purchase should be made until it had been approved by a majority of the board of Selectmen.

Under the authority of this vote, the Commission has made the following purchases:—

157,288 feet of land near the corner of Warren and Clyde streets, adjacent to town property, now used as a gravel pit, for \$15,728.80; 12,125 feet of land on Heath street, for \$4,700, to enlarge the town lot in that part of the town with the view of its use in the future as a school-house site; 2,700,720 feet of land at the corner of Hammond and Newton streets, as above described, for \$22,000; 17,046 feet of land on Boylston street, referred to above, for \$15,000.

It is negotiating for the purchase, for about \$30,000, of about 180,000 feet of land between Washington and Beacon streets, from the Griggs estate and others. If this transaction is accomplished, the Commission will have spent \$87,433.80 from the appropriation of \$100,000, leaving at their disposal only \$12,566.20.

The extreme southwestern part of the town, we believe, is now reasonably well supplied with public land, for on the

land purchased at the corner of Hammond and Newton streets there are numerous excellent sites for school-houses, and abundant space for out-door recreation. The northwestern part of the town is, however, still unprovided with public grounds. It is the opinion of the Commissioners that a considerable and ample tract of land should be secured here before the growth of population in this direction makes it impossible to buy land there at a reasonable price.

In the whole region between Boylston street, Chestnut Hill avenue, Beacon street, Tappan street and Sumner road there are no public playgrounds. This region seems destined to become one of the most important and best settled parts of the town, and provision for a playground should be made there now. Public ground is also needed for school-house sites and recreation in the Longwood region north of Beacon street, already occupied by a large population, soon to become truly urban in character.

In other districts playgrounds, too, are needed; and the Commissioners believe that the policy of the town, to secure from time to time, in advance of its immediate needs, land for recreation and school-houses, is a wise and economical one. It recommends, therefore, to the town to appropriate at the next annual meeting \$100,000, in addition to the unexpended balance of the appropriation of \$100,000, made at the town meeting held on April 14, 1896, to be expended by the Commissioners from time to time for the purchase of land for playgrounds and public-school sites, with the condition, that no purchase shall be made without the approval of a majority of the Selectmen. This recommendation is made after a discussion of the whole subject with the Selectmen, who approve of it.

#### Devotion School Playground.

This playground has a frontage on Harvard, Devotion and Stedman streets. There are at present two school-houses upon the land, the old Devotion house, and at the extreme end, farthest removed from Harvard street, Station E of the Fire Department. During the past year a comprehensive plan of grading has been carried out at an expense of \$10,550.40. On the lower portion of the land and fronting on Stedman street, a general playground, about one acre in area, was graded. Another area of somewhat less than half an acre was surfaced with cinders for the use of the primary school

April 11, 1900

59. Exterior repairs of town buildings . . . . .	\$2,000.00
60. Observance of Decoration Day . . . . .	\$400.00
61. Celebration of Fourth of July . . . . .	\$1,000.00
62. Care of Brookline Cemetery . . . . .	\$200.00
63. Contingencies, including legal expenses, printing and advertising, and other miscellaneous expenses . . .	\$15,000.00
	<hr/> \$61,802.00

For the purpose of determining the amount expended for any of the purposes authorized, all reimbursements and credits shall be deducted from the amount actually expended; but this provision shall not be construed to apply to actual cash received from taxes, assessments, water rates, rents, Bath House, school tuition and other fees, fines or interest.

Whenever work is done or materials furnished by one department for another department, the cost of which is charged in the first instance to the appropriation of the former department, credit shall, upon the approval of the latter department and the officers authorized to draw orders against the appropriations thereof, forthwith be given to the former department upon the books of the Accountant.

And the foregoing sums amounting in the aggregate to \$982,747.01 are hereby appropriated to defray expenses which will come in course of payment in and for the financial year ending January 31st, 1901.

On motion of Mr. James M. Codman, Jr. —

*Voted,* That the unexpended balance of the sum of one hundred thousand dollars (\$100,000) appropriated at the adjourned annual town meeting held April 14th, 1896, for the purchase of land for public playgrounds, and reappropriated at the adjourned annual town meetings held April 14th, 1897, April 13th, 1898, and April 14th, 1899, be reappropriated.

Mr. James M. Codman, Jr., offered the following vote: —

*Voted,* That the Town Treasurer be authorized, when so directed by the Selectmen, to borrow from time to time a sum or sums not exceeding thirty-five thousand dollars (\$35,000) in the aggregate, for the purchase of land for public playgrounds, giving therefor the note or notes of the town, bearing interest at a rate not exceeding four per centum per annum, payable semi-annually, signed by the Treasurer, and countersigned by a majority at least of the Selectmen. Such note or notes shall be made payable within thirty years from the date thereof.

Mr. Joseph Walker and Mr. Leslie C. Wead were appointed tellers, and were sworn to the faithful discharge of their duties by the Moderator.

The vote was then put upon its passage, and the whole number voting was ninety-two (92), as follows: "Yes," ninety-two (92); "No," none (0); and the vote was declared passed by more than two-thirds of the voters present and voting thereon.

**Fifth Article taken up,**—"To accept and allow Crowninshield road, as laid out by the Selectmen and reported to the town at this meeting."

On motion of Mr. Horace James—

*Vote*d, That the reading of the report on the laying out of Crowninshield road be dispensed with.

The Selectmen presented in print the following report on the laying out of

**Crowninshield Road.**

We, the undersigned, Selectmen of Brookline, having given printed and written notice to Fanny C. Adams, Charles Francis Adams, 2d, and Charles U. Cotting, trustees under the will of Caspar Crowninshield, Charles U. Cotting and Francis C. Welch, trustees under an indenture, being all the parties known to us to be interested in the subject-matter of the street to be laid out, of our intention to lay out a street substantially on the line of Crowninshield road, so called, such notices requiring such persons to appear before us at our room in the Town Hall, on Monday, March 5th, 1900, at five o'clock P. M., and having caused such notices to be actually served according to law upon all such persons by a constable of this town, at least seven days before the day so appointed for the hearing, and having given notice to them and all other persons (if any) who may be interested in the subject-matter of said street, whose names are not known to us, by posting up true and attested copies of the same notice in three public places in the town, seven days at least before the day appointed for the hearing.

Pursuant to such notice, we met at the time and place appointed, and no person appearing to object, and the route of the street having been viewed and examined by us, do adjudge that it is necessary for the public convenience that said street should be laid out and maintained by the town as hereinafter described by its center line:—

Beginning at a point on the southerly line of Commonwealth avenue situated 524.3 feet westerly from the southwesterly corner of Pleasant street and said Commonwealth avenue, said point being also situated 253 feet easterly from the southeasterly corner of Commonwealth avenue and Babcock street, thence running southerly and deflecting easterly  $89^{\circ} 43' 30''$  for a distance of 276.28 feet; thence deflecting  $23^{\circ} 20' 20''$  easterly and running southeasterly for a distance of 711.71 feet;

**Twenty-fifth Article,**—“To authorize the Park Commissioners to accept, on behalf of the town, a deed of the triangular lot of land lying between Linden street and Linden place.”

**Twenty-sixth Article,**—“To see if the town will appropriate and authorize the Treasurer to borrow the sum of \$100,000, to be expended by the Park Commissioners for the purchase in different parts of the town of such pieces of land for playgrounds and school-house sites as in their judgment, with the approval of the Selectmen, seem desirable.”

**Twenty-seventh Article,**—“To appropriate \$12,000 to pay for land for a park on Corey Hill, and to authorize the Treasurer to borrow the same.”

On motion of Mr. Desmond FitzGerald —

*Voted,* That the Park Commissioners be and they are hereby authorized to accept, on behalf of the town, a deed of the triangular lot of land lying between Linden street and Linden place.

On motion of Mr. Desmond FitzGerald —

*Voted,* That the sum of one hundred thousand dollars (\$100,000) be appropriated for the purchase of land for public playgrounds.

On motion of Mr. Desmond FitzGerald —

*Voted,* That no purchase of land or expenditure of money, under the authority of the foregoing vote, shall be made by the Park Commissioners, except with the previously obtained written approval of the board of Selectmen.

Mr. Desmond FitzGerald offered the following vote:—

*Voted,* That the Town Treasurer be authorized, when so directed by the Selectmen, to borrow from time to time the sum of one hundred thousand dollars (\$100,000), appropriated at this meeting, for the purchase of land for public playgrounds, giving therefor the note or notes of the town, bearing interest at a rate not exceeding four per centum per annum, payable semi-annually, signed by the Treasurer and countersigned by a majority at least of the Selectmen. Such note or notes shall be made payable within thirty years from the date thereof.

The above vote was put upon its passage, Mr. Joseph Walker and Mr. Leslie C. Wead acting as tellers, and the whole number voting was one hundred and thirteen (113), as follows: “Yes,”

April 14, 1898

*Voted*, To authorize the Water Board to lay a water main in Howard street, as petitioned for by Ernest W. Bowditch, at an estimated cost of \$1,547, and that the extension account be increased by said amount.

*Voted*, To authorize the Water Board to lay a water main in Howard street, as petitioned for by Ernest W. Bowditch, he having agreed to pay five per cent per annum upon the actual cost of construction until the income derived from water rates shall equal this sum, at an estimated cost of \$1,547.

On motion of Mr. Horace James, it was

*Voted*, That the Selectmen report to the town at the next special town meeting whatever action may be necessary to provide at the next annual town meeting for the election of one Assessor for the term of one year, one Assessor for the term of two years, and one Assessor for the term of three years; and at each annual meeting thereafter, one Assessor for the term of three years. (Acts 1893, Chap. 417, § 268.)

On motion of Mr. Horace James, it was

*Voted*, That until further action by the town the care of all public grounds and all appropriations made therefor shall be in charge of the Board of Park Commissioners.

On motion of Mr. James M. Codman, Jr., it was

*Voted*, That the sum of one hundred thousand dollars (\$100,000) appropriated at the adjourned annual town meeting April 14, 1896, for the purchase of land for public playgrounds, be reappropriated.

Mr. James M. Codman, Jr., then offered the following vote, to wit:—

*Voted*, That the Town Treasurer be authorized, when so directed by the Selectmen, to borrow from time to time the sum of one hundred thousand dollars (\$100,000), reappropriated at this meeting, for the purchase of land for public playgrounds, giving therefor the note or notes of the town, bearing interest at a rate not exceeding four per centum per annum, payable semi-annually, signed by the Treasurer and countersigned by a majority at least of the Selectmen. Such note or notes shall be made payable within thirty years from the date thereof.

The Moderator appointed as tellers Messrs. Joseph Walker and Thomas F. Barrett, and they were sworn by the Town Clerk.

The vote was then put upon its passage, and the whole number of votes was one hundred and thirty-one, as follows: Yes, one hundred and thirty-one (131); no, none (0); and the vote was declared passed in the affirmative by more than two-thirds of the voters present and voting thereon.

*Voted*, That \$350 be appropriated to enable the School Committee to pay for the transportation of scholars to the Heath-street School, the same to be added to the general appropriation for schools.

Eighth Article taken up,—“To authorize the Treasurer to borrow the sum of \$25,000, appropriated by the town January 30th, 1896, toward the cost of erecting the new Bath-house.”

Mr. Horace James then offered the following vote, to wit:—

*Voted*, That the Town Treasurer be authorized, when so directed by the Selectmen, to borrow the sum of twenty-five thousand dollars (\$25,000) appropriated at the meeting held on January 30th, 1896, for the construction of the new bath-house, giving therefor the note or notes of the town, signed by the Treasurer and countersigned by a majority at least of the Selectmen, bearing interest at a rate not exceeding four per cent per annum, payable semi-annually. Such note or notes shall be made payable in such annual proportionate payments as will extinguish the same in or within ten years from the date of their delivery.

The Moderator appointed as tellers Thomas Aspinwall and Frederick Higginson, and they were sworn by the Moderator.

The vote was then put upon its passage, and the whole number of votes was two hundred and sixteen, as follows, to wit: Yes, one hundred and ninety-five (195); No, twenty-one (21); and the vote was declared passed in the affirmative, by more than two-thirds of the voters present and voting thereon.

*Voted*, That the sum of \$500 be appropriated to pay so much of the interest upon the foregoing loan as may become due and payable within the current financial year, the same to be added to the general appropriation for interest.

Ninth Article taken up,—“To see if the town will appropriate and authorize the Treasurer to borrow the sum of \$100,000 to be expended by the Park Commissioners for the purchase in different parts of the town of such pieces of land for playgrounds and school-house sites as in their judgment, with the approval of the Selectmen, seems desirable.”

*Voted*, That the sum of one hundred thousand dollars (\$100,000) be appropriated for the purchase of land for public playgrounds.

*Voted*, That no purchase of land or expenditure of money under the authority of the foregoing vote, shall be made by the Park Commissioners, except with the previously obtained written approval of the board of Selectmen.

*Voted*, That the Park Commissioners are requested to examine into and report to the town upon the advisability of securing for a public reservation a considerable tract of waste or unimproved land.

Mr. Horace James then presented the following vote, to wit:—

*Voted*, That the Town Treasurer be authorized, when so directed by the Selectmen, to borrow from time to time the sum of one hundred thousand dollars (\$100,000), appropriated at this meeting, for the purchase of land for public playgrounds, giving therefor the note or notes of the town, bearing interest at a rate not exceeding four per centum per annum, payable semi-annually, signed by the Treasurer and countersigned by a majority at least of the Selectmen. Such note or notes shall be made payable within thirty years from the date thereof.

The vote was then put upon its passage, the same tellers acting, and the whole number of votes was one hundred and seventy-eight, as follows, to wit: Yes, one hundred and seventy-eight (178); No, none (0); and the vote was declared passed in the affirmative, by more than two-thirds of the voters present and voting thereon.

Tenth Article taken up,—“To appropriate \$8,000 to grade and finish Longwood Playground, and to authorize the Treasurer to borrow the same.”

*Voted*, That the sum of eight thousand dollars (\$8,000) be appropriated to grade and finish Longwood Playground.

Yes, one hundred and forty-two (142); No, none.

Mr. Horace James then presented the following vote, to wit:—

*Voted*, That the Town Treasurer be authorized to borrow, when so directed by the Park Commissioners, the sum of eight thousand dollars (\$8,000) appropriated at this meeting, at a rate of interest not exceeding four per cent per annum, the bonds or certificates of indebtedness to be given therefor to be denominated upon their face, “Public Park Construction Loan,” and to be made payable in such annual proportionate payments as will extinguish the same in or within ten years from their date; the bonds or certificates to be signed by the Treasurer and countersigned by a majority at least of the Selectmen; and the said Park Commissioners are authorized to expend the said sum of eight thousand dollars for the improvement of the Longwood Playground.

The vote was then put upon its passage, the same tellers acting, and the whole number of votes was one hundred and fifteen, as follows, to wit: Yes, one hundred and fifteen (115); No, none (0); and the vote was declared passed in the affirmative, by more than two-thirds of the voters present and voting thereon.



Wednesday, January 8th, 1902.

At a meeting of the Selectmen the Park Commissioners were represented by their Chairman, Desmond Fitzgerald, who, discussed with the Board the question of the proposed purchase of parcels of land for which options have been obtained as follows:

George F. Boynton,	About $18\frac{3}{8}$ acres.	\$12,000.00
Heirs of J. W. Edgerly	" 8 "	4,000.00
Heirs of George S. Curtis	" $8\frac{1}{2}$ "	2,500.00
Frank & William Schneider.	" 7 "	5,557.00
Harry B. Burley.	" $3\frac{6}{10}$ "	4,000.00
John J. Wright and William E. Cox.	" 17 "	7,500.00

In accordance with the above recommendation, the Selectmen authorized in writing the purchase of about  $62\frac{1}{2}$  acres of land adjoining the town's land on Newton Street by the Park Commissioners for public playgrounds at an expense not exceeding \$35,557.00.

Attest:

George F. Joyce

Clerk.

certain pieces of land in the vicinity of Newton Street.

At five o'clock conferred with the Selectmen upon the subject; also upon the question of the purchase of a part of the Crafts estate, of which the Engineer was requested to stake out a portion 600 feet by 600 feet for taking a view of the same.

Adjourned.

Attest:

George F. Joyce  
Clerk

Tuesday, November 14th, 1901.

Meeting of the Selectmen with the Park Commissioners at 7.45 o'clock P. M. Present Messrs. Godman, Conant, Humphrey, and Pearson with Messrs. City General and Sargent.

Mr. Driscoll of the School Committee, with Mr. Aldrich, Superintendent of Schools, were present to confer with <sup>the</sup> two Boards in regard to a location for a school-house for the Heath School District. Various sites were considered and discussed.

The Boards considered together the question of grading the Devotion House grounds, having in mind the walling around of the trees for their preservation.

The question of the purchase of various parcels of land <sup>adjoining land</sup> owned by the Town on Newton Street were considered and discussed at length, meeting with favor by the Selectmen, and if satisfactory prices can

be obtained, the Board will approve in writing the purchase of the same by the Park Commissioners.

The petition of Edward Atkinson, and 39 others for the purchase of a suitable playground for the vicinity of Upper Boylston Street, which had been received by the Selectmen, was referred to the Park Commissioners.

Adjourned.

Attest:

George F. Joyce, Clerk.

Friday, November 29th, 1901.

Meeting of the Park Commissioners at five o'clock P.M. Present Messrs. Fitzgerald and Sargent.

Voted. To notify the Selectmen that a vacancy exists in the Board of Park Commissioners, and ask them to call a joint convention of the two Boards at an early day, for the purpose of filling said vacancy.

Mr. Charles F. Pearson was present with the Board by invitation to consult in regard to the purchase of certain parcels of land in the vicinity of Newton Street.

Adjourned.

Attest:

George F. Joyce, Clerk.

At a Special Town Meeting held November 20th, 1901  
Voted, That \$2500. be appropriated towards the cost of purchasing the triangular piece of land surrounded by Upland Road, for a park, the amount to be taken from

Monday, December 9th, 1901.

At a joint convention of the Park Commissioners with the Board of Selectmen, Albert B. Lincoln, Jr. was unanimously elected to fill the vacancy existing on the Board of Park Commissioners.

Attest:

George F. Joyce, Clerk.

Thursday, December 26th, 1901.

A meeting of the Park Commissioners was held at five o'clock P.M. to see what action should be taken on the invitation to attend a meeting of the Committee appointed by the Town to consider the question of the purchase of Quokline Reservoir and the building of a boulevard by the Metropolitan Park Commissioners.

Adjourned.

Attest:

George F. Joyce, Clerk.

Friday, December 27th, 1901.

The Park Commissioners were present by invitation of the above special Committee at a meeting held this evening to hear those in favor of the project.

Attest:

George F. Joyce, Clerk.

#1

(2) 63

G-16-1 ✓

William B. French et al  
to

Inhabitants of Brookline

REGISTRY OF DEEDS,  
COUNTY OF NORFOLK,

DEDHAM, - MASS.

APR 3 1899

Rec'd 3.15 P.M.

Deed

88

Mail to

William Hedge

951 Beacon St

K N O W A L L M E N B Y T H E S E P R E S E N T S

That we, WILLIAM B. FRENCH of Winchester in the County of Middlesex and Commonwealth of Massachusetts, and EMERY B. MOORE of Brookline in the County of Norfolk and said Commonwealth, Trustees of the Chestnut Hill Land Company of Brookline, and the grantees named in a certain deed given by George F. Bouvé to us, the said William B. French and Emery B. Moore, trustees as aforesaid, dated January 29, 1896, and recorded with Norfolk Deeds, Book 753, Page 622, under and by virtue of the power and authority upon us conferred by the Deed aforesaid, by the terms of a certain Declaration of Trust made by us as trustees as aforesaid; dated January 29, 1896, recorded with Norfolk Deeds, Book 753, Page 626, and by the Articles of Association of said Chestnut Hill Land Company of Brookline, dated January 29, 1896, recorded with Norfolk Deeds, Book 753, Page 631, and of every other power and authority us hereto enabling, in consideration of twenty-two thousand dollars (\$22,000) paid by the Inhabitants of said Town of Brookline, in their corporate capacity, the receipt whereof is hereby acknowledged, do hereby remise, release and forever quitclaim unto the said Inhabitants of the Town of Brookline, a certain parcel of land lying on the northeasterly side of Hammond and Newton Streets in said Brookline, containing sixty-two acres more or less, and bounded and described as follows:

Beginning at a point on the northeasterly line of Hammond Street at the junction of land of grantors and that now or late of Elizabeth T. Quimby; thence running southeasterly by land now or late of said Quimby, and land now or late of the Goddard Heirs, about fourteen hundred thirty (1430) feet; thence running northeasterly and northerly by land now or late of said Goddard Heirs, about seven hundred fifty (750) feet; thence running northeasterly by other land now or late of said Goddard Heirs, about three hundred ten (310) feet to land now or late of Thomas Gaffield; thence running southeasterly by land now or late of said Gaffield, about nine hundred thirty (930) feet; thence running southwesterly by still other land now or late of said Gaffield, about four hundred twenty (420) feet; thence southeasterly by land now or late of said Gaf-

field, about three hundred forty (340) feet; thence running southwesterly by still other land now or late of said Gaffield, about eight hundred (800) feet; thence southeasterly by land now or late of said Gaffield, two hundred (200) feet; thence southwesterly by land now or late of said Gaffield, about five hundred two and six-tenths (502.6) feet to the northeasterly line of Newton Street; thence running northwesterly by said northeasterly line of Newton Street, about twelve hundred twenty (1220) feet to its junction with Hammond Street; thence running northerly by the easterly and northeasterly side lines of said Hammond Street, about seventeen hundred fifty (1750) feet to the point of beginning; and being all the land of grantors situate in said Brookline and lying northeasterly of Newton and Hammond Streets.

TO HAVE AND TO HOLD the granted premises, with all the privileges and appurtenances thereto belonging to the said Inhabitants of Brookline, in their corporate capacity, and their heirs, successors and assigns, to their own use and behoof forever.

IN WITNESS WHEREOF, we, the said William B. French and Emery B. Moore, trustees as aforesaid, have hereunto set our hands and seals this twenty-fourth day of March, in the year one thousand eight hundred and ninety-nine.

*William B. French*  
*Emery B. Moore*

Trustees of the Chestnut Hill Land Company  
of Brookline.

COMMONWEALTH OF MASSACHUSETTS.

Suffolk, ss. *Boston, April 3, 1899*

Then personally appeared the above-named William B. French and Emery B. Moore and acknowledged the foregoing instrument to be their free act and deed.

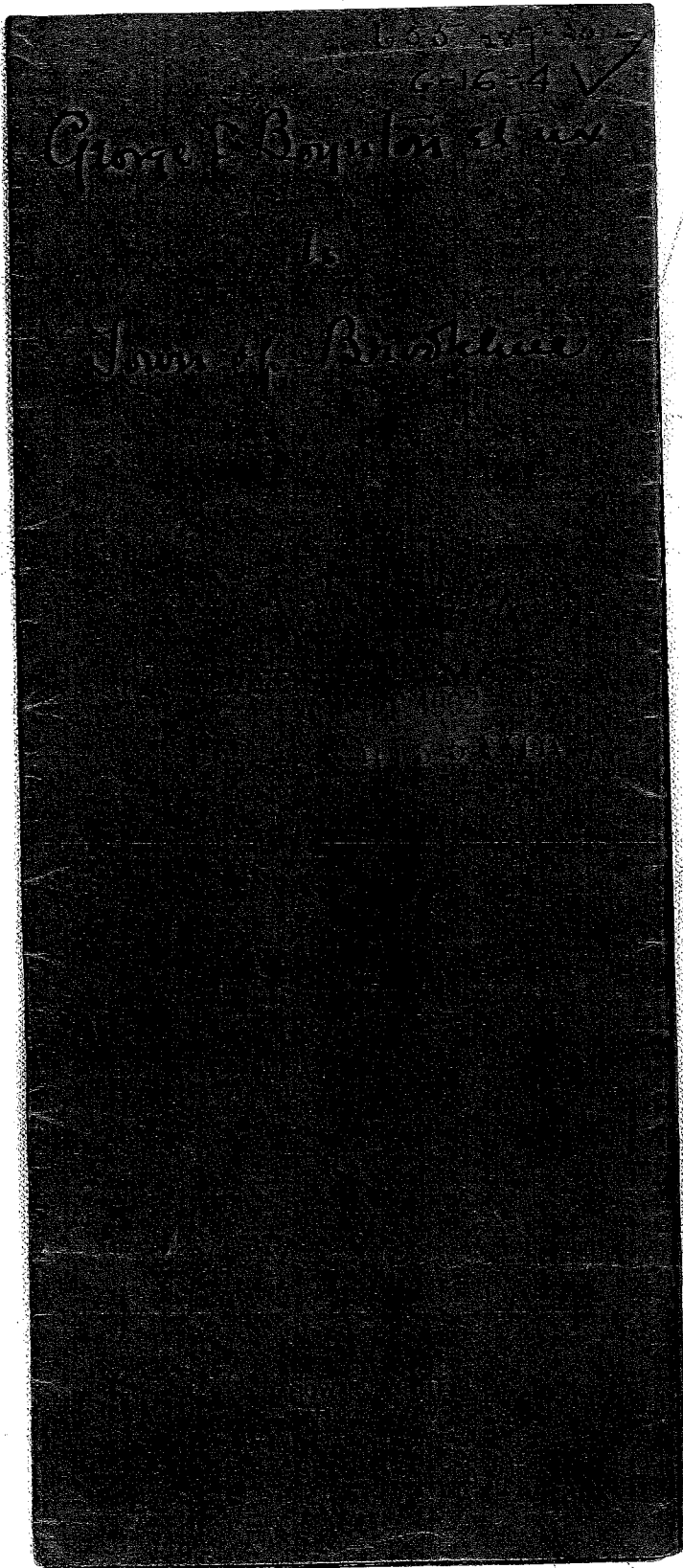
Before me

*Elmer S. Curtis,*  
Justice of the Peace.

#4

\$12,000

2 lots: 4 acres  
+ Perry



KNOW ALL MEN BY THESE PRESENTS that we, George F. Boynton and Clara F. Boynton, wife of said George F. Boynton, in her right, both of Brookline in the County of Norfolk and Commonwealth of Massachusetts, in consideration of Twelve Thousand Dollars paid by the Town of Brookline, a municipal corporation duly organized under the laws of said Commonwealth, the receipt whereof is hereby acknowledged, do hereby remise, release, and forever quitclaim unto the said Town of Brookline and its successors and assigns,- A certain lot or parcel of land situated in said Brookline, and bounded and described as follows, to wit:- Southerly by Newton street; Northwesterly by the second parcel herein described and by land of the Country Club, formerly of Bacon, about seven hundred and sixty-one and one-half ( $761\frac{1}{2}$ ) feet; Northeasterly by land formerly of W. A. Humphrey; and Southeasterly by land formerly of one Guild; containing four (4) acres, one quarter ( $\frac{1}{4}$ ), and nineteen (19) rods, more or less.

Also another lot or parcel of land with the buildings thereon situated in said Brookline, and bounded and described as follows:- Beginning at a point on Newton street at land now or late of William Schneider, and thence running Southeasterly and Easterly on said Newton street to the first lot herein described; thence running Northeasterly by said first described lot about twenty-six (26) rods to land of the Country Club, formerly of Bacon; thence running Northwesterly by said land of the Country Club about thirty-six (36) rods to land of the Heirs of James W. Edgerly, formerly of Goldsmith; thence running Southwesterly by said land of the Heirs of James W. Edgerly about thirty-nine (39) rods to a stake in a ditch; thence running Northwesterly by said land of the Heirs of James W. Edgerly about thirteen (13) rods to land now or late of William Schneider; thence running Southerly by said land of Schneider to the point of beginning; containing fourteen (14) acres, more or less.

Excepting, however, from the above-described premises a parcel of land containing five thousand (5000) square feet on the Northerly side of Newton street which was conveyed by Marcus M. Estabrook to Margaret B. Corbet by deed dated March 1, 1888, and recorded with



Norfolk Deeds, book 602, page 128.

Being the same premises conveyed to said Clara F. Boynton by Marcus M. Estabrook by deed dated December 16, 1897, and recorded with Norfolk Deeds, book 805, page 578. ( Said premises are hereby conveyed subject to a lease held by Jerry Bond, under which the grantor is to receive the rent up to April 1, 1902. Subject also to the right of said Bond to cut the wood standing on the premises.)

TO HAVE AND TO HOLD the granted premises, with all the privileges and appurtenances thereto belonging to the said Town of Brookline and its successors and assigns, to their own use and behoof forever.

And we do hereby, for ourselves and our heirs, executors and administrators, covenant with the said grantee and its successors and assigns that the granted premises are free from all incumbrances made or suffered by us, except as aforesaid, and that we will and our heirs, executors, and administrators shall warrant and defend the same to the said grantee and its successors and assigns forever against the lawful claims and demands of all persons claiming by, through, or under us, except as aforesaid, but against none other.

IN WITNESS WHEREOF we, the said George F. Boynton and Clara F. Boynton hereunto set our hands and seals this *nineteenth* day of *February* in the year one thousand nine hundred and two.

Signed, sealed and delivered  
in presence of

*George F. Joyce*

*Clara F. Boynton*

*George F. Boynton*



COMMONWEALTH OF MASSACHUSETTS.

*Norfolk*

ss.

*Brookline February 19<sup>th</sup>*

1902.

Then personally appeared the above-named *Clara F. Boynton & George F. Boynton* and acknowledged the foregoing instrument to be *their* free act and deed, before me, -

WHEREAS during the latter part of year 1904 open drainage ditches were constructed in land of the town of Brookline located on Newton Street and leased to Jerry Bond of Brookline, in the County of Norfolk, and Commonwealth of Massachusetts, under lease of Clara F. Boynton to said Jerry Bond, dated the sixth day of March, 1901 and covering a period of five years from the first day of May 1901.

Now, therefore, in consideration of one dollar and other good and valuable considerations to me paid by the Town of Brookline, a municipal corporation in the County of Norfolk and Commonwealth of Massachusetts, the receipt whereof is hereby acknowledged, I the undersigned, do hereby release and discharge said town, its agents, officers and servants from all claim or right to damages or compensation for land used, damage to remaining land, changes in grade and damages of any kind whatsoever on account of the construction of said ditches.

This release to be void in the event of failure of the said Town of Brookline to ratify contract made between the said Jerry Bond and the said town for the collection of garbage for a term of five years, from the first day of May, nineteen hundred and six; otherwise to remain in full force.

In Witness Whereof I have hereunto set my hand and seal this twenty-second day of January, 1906.

In presence of  
Edward McEwen

Jerry Bond.

